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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,129	08/05/2002	David Norman Wells	4070.000300	1451

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EXAMINER

TON, THAIAN N

ART UNIT PAPER NUMBER

1632

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/088,129

Applicant(s)

WELLS, DAVID NORMAN

Examiner

Thaian N. Ton

Art Unit

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 3/14/02.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-46 and 49-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-46 and 49-56 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

Applicants' Preliminary Amendment, filed 3/14/02, has been entered. Claims 3-6, 9, 10, 12, 14, 16-18, 20-24, 26, 27, 30, 32-34, 36-40, 43-45, 49, 51-55 have been amended. Claims 47-48 are cancelled. Claims 1-46 and 49-56 are pending.

### *Election/Restrictions*

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-15, drawn to methods of nuclear transfer.

Group II, claim(s) 16-33, drawn to methods of producing cloned animal embryos by transferring a segregated donor nucleus in the G1 stage of the cell cycle into an enucleated recipient cell.

Group III, claim(s) 34-46, drawn to methods of producing an embryonic cell line.

Group IV, claim(s) 49-51, drawn to methods of therapeutic cloning and methods of treating a disease, disorder or injury by transplantation of specialized cells or tissue, wherein the disease is a neurological disorder.

Group V, claim(s) 49-51, drawn to methods of therapeutic cloning and methods of treating a disease, disorder or injury by transplantation of specialized cells or tissue, wherein the disease is diabetes.

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Group VI, claim(s) 49-51, drawn to methods of therapeutic cloning and methods of treating a disease, disorder or injury by transplantation of specialized cells or tissue, wherein the disease is heart disease.

Group VII, claim(s) 49-51, drawn to methods of therapeutic cloning and methods of treating a disease, disorder or injury by transplantation of specialized cells or tissue, wherein the disease is muscular dystrophy.

Group VIII, claim(s) 49-51, drawn to methods of therapeutic cloning and methods of treating a disease, disorder or injury by transplantation of specialized cells or tissue, wherein the disease is various hereditary diseases.

Group IX, claim(s) 49-51, drawn to methods of therapeutic cloning and methods of treating a disease, disorder or injury by transplantation of specialized cells or tissue, wherein the disease is a specific cancer.

Group X, claim(s) 49-51, drawn to methods of therapeutic cloning and methods of treating a disease, disorder or injury by transplantation of specialized cells or tissue, wherein the disease is spinal cord injury.

Group XI, claim(s) 49-51, drawn to methods of therapeutic cloning and methods of treating a disease, disorder or injury by transplantation of specialized cells or tissue, wherein the disease is burns.

Group XII, claim(s) 49-51, drawn to methods of therapeutic cloning and methods of treating a disease, disorder or injury by transplantation of specialized cells or tissue, wherein the disease is other afflictions.

Group XIII, claim(s) 53, drawn to a method of drug discovery or toxicology testing of drugs *in vitro*.

Group XIV, claim(s) 54, drawn to a method of xenotransplantation.

Group XV, claim(s) 55-56, drawn to methods of gene therapy.

The inventions listed as Groups I-VII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Unity of Invention between different categories of inventions will only be found to exist if specific combinations of inventions are present. Those combinations include:

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- 1) A product and a special process of manufacture of said product
- 2) A product and a process of use of said product
- 3) A product, a special process of manufacture of said product, and a process of use of said product
- 4) A process and an apparatus specially designed to carry out said process
- 5) A product, a special process of manufacture of said product, and an apparatus specially designed to carry out said process.

The allowed combinations do not include multiple products, multiple methods of using said products, and methods of making multiple products as claimed in the instant invention.

37 CFR 1.475 (c) states that:

"If an application contains claims to more or less than one of the combination of categories of invention set forth in paragraph (b) of this section, unity of invention might not be present."

37 CFR 1.475 (d) states:

"If multiple products, processes of manufacture or uses are claimed, the first invention of the category first mentioned in the claims of the application and the first recited invention of each other categories related thereto will be considered as the main invention in the claims, see PCT Article 17(3)(a) and 1.476(c)."

37 CFR 1.475(e) states:

"The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternative within a single claim."

In view of the 37 CFR 1.47, the claims as instantly drafted, recite a method as the first claim, thus there is no first-recited product in the claims. Thus, the claimed invention lacks unity because the different groups (I-XV) recited above are directed to different methods, each of which have different technical considerations, distinct method steps and materially separate protocol. Each of the methods recited

in Groups I-XV recite distinct materials/method steps that are not required for the implementation of the other.


Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Thaian N. Ton whose telephone number is (571) 272-0736. The Examiner can normally be reached on Monday through Friday from 8:00 to 5:00 (Eastern Standard Time), with alternating Fridays off. Should the Examiner be unavailable, inquiries should be directed to Ram Shukla, SPE of Art Unit 1632, at (571) 272-0735. Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the Official Fax at (571) 273-8300. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*tnt*

Thaian N. Ton  
Patent Examiner  
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